

WRITTEN COMMENTS OF DON SCHELLHARDT, ESQUIRE

**IN FCC DOCKET RM-10412:
PETITION FOR A RULEMAKING OR A NOTICE OF INQUIRY
ON PROPOSED REGULATORY MANDATE FOR
COMMERCIALY-BUILT AMATEUR RADIO EQUIPMENT
THAT IS REPAIRABLE “IN THE FIELD”**

April 21, 2002

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UNITED STATES OF AMERICA

Before The

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, DC 20554

In the Matter of

**Field Repair Requirements
For Commercially-Built
Transmitter and Transceiver
Equipment for the Amateur
Radio Service**

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FCC Docket No. RM-10412

WRITTEN COMMENTS OF DON SCHELLHARDT, ESQUIRE

I hereby submit these Written Comments in support of Nick Leggett's Petition, for a Notice Of Proposed Rulemaking or a Notice Of Inquiry, in Docket No. RM-10412.

This Petition proposes that commercially-built Amateur Radio Service equipment should be subject to new regulatory requirements for "field repairability".

IDENTIFICATION OF THE COMMENTING PARTY

I am an attorney and a writer, with a law degree from George Washington University and Bar Memberships in Virginia and Connecticut. At present, I am taking post-doctoral coursework at the University of Denver College of Law, while concurrently representing THE AMHERST ALLIANCE -- a Net-based, nationwide citizens' group -- in its regulatory and Congressional advocacy of Low Power FM and media diversity.

In the past, I have held public policy positions with:

U.S. Representative Matthew J. Rinaldo of New Jersey (retired), who served as a senior Republican on the House Energy and Commerce Committee

The *House* [of Representatives] *Republican Research Committee*

The *U.S. Environmental Protection Agency*, Office of Air and Radiation

The *American* [Natural] *Gas Association*, Government Relations Group

And

THE AMHERST ALLIANCE, which I co-founded in 1998 and led for 2 years

More recently, I have been a family law attorney for *Blue Ridge Legal Services* in Harrisonburg, Virginia. Like other Legal Services operations, this government-funded non-profit agency provides free legal representation for low-income clients.

Since leaving Blue Ridge, I have been a solo practitioner of Family Law and Communications Law. I have practiced the former in local Juvenile & Domestic Relations Courts and I have practiced the latter before the FCC and Congress.

As some at the Commission -- and in the community of radio and TV broadcasters -- are already aware, I have on various occasions joined with Nickolaus Leggett in drafting and filing a Petition with the FCC. Specifically, I have been a Co-Petitioner with Nick in the Petitions which triggered FCC Docket RM-5528 (1986-1987), FCC Docket RM-9208 (1998-2000) and the ongoing FCC Docket RM-10330 (2001-now). We have also filed Joint Written Comments, in many FCC Dockets, on many occasions.

I will not deny that I am influenced by feelings of personal loyalty to Nick. We have been friends since we first met as fraternity brothers, in the Kappa Alpha Society at Wesleyan University in Middletown, Connecticut. I can personally vouch for Nick's integrity, intelligence and dedication to making a difference in the world around him.

Nevertheless, my Written Comments in RM-10412 are *not* motivated by personal loyalty alone. Nick has not asked me to write them, nor has he had any input on them. I have written these Comments because I believe Nick Leggett is right -- *dead right* -- in calling for new regulations to mandate the field repairability of "ham" equipment.

I will spend the balance of these Comments explaining the basis for this conclusion.

RELATIVELY NARROW ISSUES

Traditional Roles of the Amateur Radio Service

Traditionally, the Amateur Radio Service has "earned its keep" -- that is, justified its claim to a share of the radio spectrum, both here and in other countries -- by providing services of value to society as a whole. It is, in fact, no accident that "ham" operations are called the Amateur Radio *Service*.

Foremost among the Service's services to the public has been a spectacular record of assistance and initiative during disasters, both natural and man-made. Much less spectacular, but also important, has been the role of the Amateur Radio Service as a gateway to broadcasting for newcomers in general and young newcomers in particular.

The Service has clearly and consistently played a decisive role in educating *and* motivating individuals to develop technical skills -- *and* retain them for a lifetime.

It is no secret that Docket RM-10412 has attracted a number of Written Comments, many of them authored by “hams”, which are critical of Nick Leggett’s Petition. Yet none of these Written Comments -- at least as of April 21, 2002 -- have challenged Nick Leggett’s basic propositions that:

Emergency services and technical education have been cornerstone justifications for allocating part of the much-valued radio spectrum to Amateur Radio operations

And that

Performance of either function is hindered when commercially-built Amateur Radio equipment is not designed and manufactured to be repairable “in the field”

And that

Field repairable Amateur Radio equipment, while it was once the norm, has now become the exception

Once again: *None* of the critical Written Comments in Docket RM-10412 appear to challenge *any* of these three related propositions.

Instead, the various critical Comments state or imply one or more of the following:

Somehow, technical education in radio repair isn’t as important for “hams” (or, at least, isn’t as popular with “hams”) as it used to be

And/or

The decline in “ham” equipment field repairability is being offset, or at least can be offset, by maintaining inventories of spare parts and/or “backup” equipment

And/or

Even if there is a problem with the *status quo* (a point which is not necessarily conceded), the “cure” of mandatory field repairability would be worse than the disease -- because the added production costs would make the equipment unaffordable for many, or even drive equipment manufacturers out of the “ham” market completely

I will deal with each of these basic contentions in turn.

Implied Unimportance of Technical Education in Radio Repair

It is probably true, as some commenting parties have claimed, that many modern “ham” operators are no longer interested in learning how to repair radio equipment in the field. Today’s “throwaway” equipment is likely acceptable to many of today’s “hams”.

The question is whether this should matter.

That is: Should the current learning preferences of individual “hams” be the beginning and end of any debate over what “hams” should be learning? Is the Amateur Radio Service solely an institution *of* “hams”, *by* “hams” and *for* “hams” -- or is there an obligation to *the public* that comes with the grant of spectrum to “ham” radio operators?

Most “hams” would not dispute, directly, that a public service obligation “comes with the territory” when an Amateur Radio license is granted. Indeed, some of the critical commenters pointed to ongoing emergency exercises, and similar training, as evidence that the Service continues to take its public service obligations seriously.

Nevertheless, while such examples indicate that there is still a widespread perception of a public service obligation within the amateur radio community, the shoulder-shrugging indifference to radio repair education suggests that this perception of a public service obligation has grown more *selective* than it used to be.

That is: Learning how to *operate* an undamaged radio during an emergency is apparently still seen as a major obligation of amateur radio operators. However, learning how to *repair* a damaged radio during an emergency is evidently perceived as a matter best left to individual preference.

I ask the question: *Why?* If Ben Franklin was right that “A penny saved is a penny earned”, then a radio repaired is a radio built. Why is operating an undamaged radio seen as an important emergency skill -- while repairing a damaged radio is not?

I also ask the question: *Who?* Who should decide the question of which emergency skills are important enough to be the subject of mandatory education and training? The references to preferences, in several of the Docket RM-10412 Written Comments, imply a belief that the Amateur Radio Service itself -- or even its individual Members, acting case-by-case -- should make the decision about what must be learned. Does *the Commission* share this implicit belief?

If the Commission decides to proceed with a Notice Of Proposed Rulemaking, or a Notice Of Inquiry, in Docket RM-10412, one “fringe benefit” will be the opportunity to make such implicit assumptions explicit -- and debate them in the light of day.

In other words:

Perhaps it *is* time to reconsider, and potentially re-define, the traditional roles and obligations of the Amateur Radio Service. Perhaps it is time as well to reconsider, and potentially re-define, the level of autonomy which the Service and its members should have in deciding the priorities of the Service.

Under *present* regulations, however, the public service obligations of the Amateur Radio Service still include the *technical education* of its individual Members, *especially* with respect to knowledge which may be useful in an emergency.

Under *present* regulations, also, it is *the Commission* -- not the leaders and/or the Members of the Amateur Radio Service -- which bears the final responsibility, and wields the final authority, for determining the roles and obligations of the Service.

In light of the regulations and responsibilities which bind the Commission and the Amateur Radio Service *today*, the Commission has a duty to respond to the ongoing reduction in the Amateur Radio Service's ability to educate its Members and deal with emergencies.

If the traditional roles and obligations of the Amateur Radio Service should be changed, let them be changed in the open.

Do not let them be eroded by default, through a failure to acknowledge and address the changes which are already occurring.

Spare Parts and “Backup” Equipment As An Alternative to Field Repairability

A number of commenters have proposed that maintaining inventories of spare parts, and/or “backup” equipment, will serve the same function as mandatory field repairability.

I certainly encourage the universal accumulation of spare parts by “hams”, and by institutional broadcasters as well, but there are several reasons why increased inventories would not be an adequate substitute for mandatory field repairability.

1. *Mandatory field repairability would be relatively easy to administer, while mandatory inventory-building would not.* As a fundamental, “threshold” issue, the FCC has well-established legal authority to set design and/or performance requirements for communications equipment, so long as the equipment is manufactured and/or sold in the U.S.A. However, the FCC’s legal authority to require inventory-building by “hams” is more debatable. An inventory-building mandate might first require action by Congress to amend the present statutory law.

Further, even if it were beyond legal challenge, a mandate for inventory-building would be very difficult to enforce. As a practical matter, it is one thing to monitor a relative handful of manufacturers for compliance with a product design requirement. It is quite a different task to monitor compliance with an inventory-building requirement by hundreds of thousands of individual Amateur Radio operators.

2. *Spare parts alone will be helpful only if the equipment is field repairable.*

3. *The operator's cost of purchasing duplicate equipment would probably exceed the price increase from designing and manufacturing the original equipment to be field repairable.* That is: Mandating changes in the design and production of "ham" radio gear, to make it field repairable, is likely to be much more cost-effective than the alternative of having each "ham" duplicate the primary equipment.

Of course, the Commission won't be able to confirm or deny this conclusion unless it initiates a proposed rule, or a Notice Of Inquiry, that can place On The Record some credible facts and/or estimates about the actual costs of field repairability.

4. *Inventories of "backup" equipment might be destroyed or damaged in the same disaster that destroys or disables the original equipment.* By contrast, a radio operator's technical education in restoring field repairable equipment will remain alive and well, *and also* mobile, so long as the operator does.

In this regard, my personal support for mandatory field repairability is premised, in large part, upon my belief that the future may bring our country not only disasters but *megadisasters*: that is, catastrophic events, natural or man-made, which greatly exceed the scale of historically recent hurricanes, earthquakes, floods *or* terrorism.

This key point will be discussed in greater detail at a later point in these Comments.

Possibility of Higher Prices for Communications Equipment

The contemplated mandate for field repairability is indeed likely to increase the cost of affected communications equipment, at least *in the short term*, as some or all of the costs of changing product design and product assembly are passed along to the equipment purchasers. However, these *additional points* should also be noted:

1. *While the prices of affected equipment are likely to rise, at least in the short term, so will the value of affected equipment.* After all, while field repairability means that sufficiently well-trained “hams” can repair their own equipment in an emergency, field repairability *also* means that local commercial enterprises can be hired to repair the equipment under more normal circumstances. That is: Field repairability will make it much easier for “hams” to extend the useful life of their equipment, if they choose, by paying to repair it instead of paying more to replace it.

The potential savings from extending the useful life of equipment should offset at least *some* of the higher initial cost. A fair-minded life cycle cost analysis might even show that the “ham” operator will come out ahead.

2. *In the case of other consumer goods, such as cars, product re-design rarely doubles or triples prices.* Percentage jumps in the low double digits are more common.

3. *The initial price increases could fade over time, as the corporate investments in product design and product assembly are recovered.*

4. *In the end, we can only speculate about the size of potential price increases until we have more information On The Record.* The best way to obtain this information -- and perhaps, as a practical matter, the *only* way to obtain it -- is through the initiation of a rulemaking or a Notice Of Inquiry that “flushes out” data on actual production costs and projections.

Of course, any and all of such data must be reviewed by the Commission with the proverbial “fine tooth comb”, given the strong temptation for many who provide such data to be self-serving in what they supply. Still, even data which must be assessed carefully, and then doublechecked or triplechecked carefully, is a place to start.

Without a formal Commission proceeding, we are not likely to have even that.

Possible Impact on Equipment Availability

In his Petition, Nick Leggett has acknowledged that modern “ham” equipment is generally manufactured as a “spinoff” of equipment manufacturing for larger, primary markets. Since these mass market product lines are usually not field repairable, a field repairability mandate, *if* limited to “ham” equipment alone, would require manufacturers to take special steps in order to re-design “ham” equipment and assemble it differently.

Of course, as the Petition hints, this disparity could be easily resolved by making mass markets subject to a field repairability mandate. Such a mandate could be justified, *at least* for equipment sold to police and fire departments, the military and similar buyers.

Nevertheless, the RM-10412 Petition does not actually propose such a broadened mandate -- and I will not add to the complexity of this proceeding by proposing such a mandate at this time. Still, it is worth noting -- indeed, it is worth *stressing* -- that “ham” equipment is not the *only* communications equipment whose lack of repairability, in the midst of an emergency, could cost lives.

In any event, assuming that a field repairability mandate is limited to Amateur Radio equipment alone, there *is* a chance that some or all of the present manufacturers will decide to leave the market. The Petition concedes as much -- although the departure of “some” is much more likely than the departure of “all”, given that those companies which remain in the market will automatically inherit a larger market share.

Even under a “worst case” scenario, however, it is highly probable that any vacuum would be filled in short order by new entrants to the market. There would remain, after all, dollars to be made by producing and selling “ham” equipment. Also, new entrants to the market would have the cost advantage of being able to design equipment and build assembly lines from scratch -- rather than having to first *undo* and/or alter designs and facilities that are already in use.

Manufacturers presently serve the markets for Part 15 and Low Power FM broadcasting equipment, even though each of these markets is notably smaller (and less stable!) than the market for “ham” equipment. Why assume that “niche market” firms would not produce and sell “ham” equipment if the market is abandoned by others?

THE NEED TO PREPARE FOR *MEGADISASTERS*

As I indicated earlier, much of my support for the RM-10412 Petition is based on my belief that *megadisasters* are likely to strike our nation within the foreseeable future.

“Megadisaster” Defined

I would define a “*megadisaster*” as follows:

A life-threatening disaster, either natural or man-made, of sufficient intensity and scale that it: (a) destroys and/or disables much, most or all of the basic infrastructure and services over an area of *at least* 10,000 square miles, for a period of *at least* weeks or months; and (b) prevents and/or significantly restricts the flow of relief supplies and personnel, from areas which are not directly affected, for a period of *at least* two weeks.

Examples of Megadisasters In History

An historic example of a *natural* megadisaster would be the 19th century eruption of a volcano on the Pacific island of Krakatoa. The eruption was so huge and so violent that it pulverized the entire island, tossing large pieces of it 10 miles into the stratosphere, and battered islands hundreds of miles away with massive tidal waves. The dust and debris from the explosion muted sunrises and sunsets, all around the world, for 2 years.

Imagine a dormant volcanic mountain near Seattle, Portland or Vancouver acting similarly today. You can see why the disaster area might encompass much of the entire West Coast, why the death toll might run into hundreds of thousands or even millions --

and why bringing replacement radios into the disaster area might be difficult for a while.

An historic example of a *man-made* megadisaster would be the devastation brought by air attacks and the clashes of enormous opposing armies, in and around Germany, in the months before and after the end of World War II in the European Theatre. For weeks and months after Germany's surrender, millions of starving civilians in Germany and nearby countries remained alive only through a combination of Allied relief efforts and the Grace of God.

A Prognosis For Megadisasters

I submit that megadisasters are likely to be more common in the 21st century than they were in the 19th or the 20th. I base this prediction on 3 observations.

(1) With respect to the prospects for *natural* megadisasters, we are "overdue" in certain cases.

The classic example of this is Southern California, which waits for another seismic shoe to drop in the form of the long-dreaded "Big One". Geological evidence shows clearly that "Big Ones", loosely defined as earthquakes exceeding 8 on the Richter scale, strike Southern California, on average, every 120 to 150 years. Since the last earthquake of this magnitude hit Southern California during the 1830's -- that is, almost 170 years ago -- there is reason to believe that metropolitan Los Angeles is now "living on borrowed time".

Although the evidence is less convincing with respect to other possible natural catastrophes, the geological record may also support speculation that the world has had a longer-than-average “breathing spell” between today and the last continent-shaking tsunami, as well as the last major meteor strike (that is, the 5-megaton burst that created the Giant Meteor Crater in Arizona). Of course, this list hardly exhausts the possibilities.

(2) With respect to the prospects for *man-made* megadisasters, it is widely recognized that technologies of mass destruction -- nuclear, thermonuclear, biological and chemical weapons, as well as the means to deliver them -- have never been so widely diffused in the entire recorded history of the human species. The *average* nuclear weapon may now be much smaller than the average nuclear weapon of 1960 -- perhaps a megaton, compared to nearly 20 megatons -- but the number of such weapons has grown from thousands to tens of thousands, and the “official” owners of such weapons have more than doubled. As for biological and chemical weapons, they are now standard in much of the Middle East, as well as elsewhere in Africa and Asia.

Meanwhile, the world’s steadily growing population continues to exert pressure on the world’s supplies of available -- and affordable -- water, food, land and energy. There is nothing like a starving, shivering, homeless, impoverished and generally irritable population to put a nuclear-armed dictator in a bad mood.

(3) At the same time that the *probability* of both natural and man-made megadisasters has increased, so has civilization’s *vulnerability* to their possible effects.

For example, after the 1989 Loma Pietro earthquake in the San Francisco Bay Area -- which was a Richter 7 earthquake, with *one tenth* the energy release of the overdue “Big One” in Southern California -- *Newsweek* noted that major earthquakes are very powerful, and terrifying to behold. “It’s a good thing earthquakes rarely kill people,” the magazine observed. Then it added: “Usually, it’s the way that structures built by *man* will *react* to an earthquake that kills people.”

This point is well worth remembering. The *last* “Big One” in Southern California, back in the 1830’s, caused many stone and adobe buildings to tumble but took few lives. In pre-Gold Rush California, there were few lives around to take -- and most of *those* people didn’t have to run very far to escape falling buildings. Contrast *that* environment for a Richter 8 earthquake with modern Los Angeles.

Similarly, the Bubonic Plague claimed a third of Europe’s population, but that was at a time when 90% of the people lived in small towns, many of which were fairly isolated. In Europe *today*, as in America today, a pandemic could spread more widely and more quickly -- because most of the population is now urban and suburban, not rural, and even the rural population is potentially connected to the far corners of the world by air travel, sea travel and the mail.

Regarding *man-made* megadisasters, our civilization is *also* more vulnerable to disruption than ever before.

As discussed in the Schellhardt/Leggett Petition For Rulemaking in RM-10330, the replacement of vacuum tubes by more modern (and unshielded) electronic technology has left the vast majority of today's electronic equipment susceptible to destruction in a possibility Electromagnetic Pulse (EMP) attack. This is one prominent example of *artificially created vulnerability* in the modern world.

Another example, of course, is the ubiquitous presence of communications equipment -- and, for that matter, *other* modern equipment -- which lacks the field repairability of its predecessors.

Examples of Possible Megadisasters in The Future

We have already mentioned "The Big One", in Southern California, as a widely expected megadisaster that is waiting to happen. We have also mentioned cataclysmic volcano eruptions, in the Pacific Northwest, as a megadisaster which is much less widely predicted -- but *well* within the realm of geological possibility, nevertheless.

In passing, I have also mentioned a "continent-shaking tsunami", a "major meteor strike", a pandemic and an Electromagnetic Pulse attack.

Other megadisasters are also firmly within the realm of possibility.

Another example of a *natural* megadisaster might be a large earthquake in an unexpected place, where the relative infrequency of major earth movements could mean that much more pent-up pressure will be released. The largest earthquakes in recorded

American history were in Charleston, South Carolina and later in the Mississippi River Valley, along the New Madrid Fault, with an epicenter between Memphis and St. Louis.

Each of these earthquakes has been estimated at almost *12* on the Richter scale. Since each number on the Richter scale is an *order of magnitude*, this means that an earthquake in the South and an earthquake in the Midwest both released roughly *100 times the energy* of the 1906 earthquake in San Francisco (Richter 9), roughly *1,000 times* the energy of the last “Big One” in Southern California (Richter 8) and roughly *10,000 times* the energy of the 1987 Loma Prieto earthquake that brought down bridges, highways and houses in the Bay Area (Richter 7).

Another example of a *man-made* megadisaster would be a terrorist nuclear weapon -- particularly if the terrorists surprised us with a *hydrogen* bomb, perhaps purchased from “the Russian Mafia” and sailed into an urban marina inside a yacht, rather than the “home made” atomic bomb, tucked in a car trunk, that we are expecting.

It should also be noted that man-made megadisasters could be *non-violent*. For example, the previously referenced Electromagnetic Pulse attack could be generated by a thermonuclear explosion in the upper atmosphere, disabling America’s infrastructure without touching a hair on anyone’s head. Also, a sustained and uniform embargo, by Middle Eastern oil producers, could be almost as disabling -- without firing a shot.

The point is that modern “hams” must be prepared for situations in which new gear from Radio Shack may be a long, long wait.

BROADER ISSUES

There are *some* issues, in the debate now raging in RM-10412, which go beyond questions of economics or technology or law. These broader issues are, essentially, matters of *philosophical choice* -- of *values* -- but the fact that they are less tangible does not make them any less important.

Individual *Wishes* versus National *Needs*

It is disturbing to find so many commenting parties assuming, implicitly or even explicitly, that Nick Leggett's Petition has been motivated by a personal desire to tinker with equipment. This assumption is clear in Written Comments which suggest that Nick can still find field repairable "ham" equipment, if he hunts for it with sufficient diligence, and/or offer advice that he should go into the business of manufacturing field repairable equipment himself.

Nick *does* enjoy "tinkering with equipment" -- a trait which has, in the past, led many others to introduce major inventions -- but it does him a disservice to assume that he is proposing mandatory regulations for the sake of his own personal enjoyment.

Those who are not already aware of Nick's dedication to *the public interest* should search the ECFS Document Lists for Nick's long-running string of FCC filings and Petitions. A quick review of these documents will reveal that Nick has rarely, if

ever, taken a policy position which would benefit him personally, either financially or otherwise, if the Commission were to adopt it.

I believe the same can be said of *my own* filings and Petitions with the FCC.

Beyond the question of Nick Leggett's character, and my own, lies the disquieting possibility -- or probability -- that some, most or all of those who assume a strictly self-interested motivation are doing so because they simply cannot imagine anyone initiating serious political action for any other reason.

Certainly, the behavior of *many* of our nation's recent leaders, in and out of the public sector, has made such a cynical assumption understandable. Nevertheless, the assumption is no less tragic, and no less dangerous, for being understandable. A lack of faith in itself can kill even a *great* nation, more surely than an army or a bomb can do.

"For The Record", in any event, the overriding issue in FCC Docket RM-10412 is not what an *individual* named Nickolaus Leggett might *want*. The overriding issue is what a *nation* called the United States of America might *need*.

If our *nation* truly *needs* field repairable equipment, as a safeguard for perilous times ahead, then the Commission should mandate such equipment -- whether or not the decision is popular with individual "hams".

This *is* a matter of national security. Under the Communications Act of 1934, the preservation of national security is *a legal duty* of the Federal Communications Commission. It is *not* an option.

Money versus Liberty

Even more depressing than the cynicism about Nick Leggett's motivation is the clear reliance, in the vast majority of critical Comments, on *money* as the value which outranks all others.

Many of those who have criticized the RM-10412 proposal have basically begun and ended their cases with the assertion that a field repairability mandate is likely to raise prices. Apparently, that is all they felt they needed to say in order to justify denial of the Petition. Prices will rise: *Q.E.D.* Nothing more need be shown.

Knowing how many Americans are struggling every day to pay their bills, and/or to pay off their debts, I do *not* take the prospect of higher prices lightly. There are *other* prospects, however, that I do not take lightly, either: the *programmed* waste of natural resources, and resulting harm to the natural environment, due to technologies and pricing strategies which encourage (or even *require*) the disposal of products that could instead be repaired or re-used ... the possible loss of life, due to *preventable* disruptions in communications ... and the possible loss of liberty, due to a lack of *reasoned* national preparedness for possible attacks.

It could be argued, in this Docket, that the tradeoff of higher prices for increased emergency preparedness (*and* reduced waste) is not a good bargain in this case: that the probable loss for the public, in the form of higher prices, is not worth the probable gain.

This is *not*, however, what opponents of the RM-10412 Petition have argued. If they had, they would have had to reference (or ask for) specific, and credible, estimates of the increase in production costs from a field repairability mandate. Then *I* would have responded, even more strongly than I already have, that *obtaining* specific, credible estimates will probably require a formal Commission proceeding: one that is serious enough to motivate manufacturers to furnish the data and, hopefully, keep it honest.

In short:

Instead of attempting to debate the *specifics* of whether or not the proposed tradeoff of higher prices for increased emergency preparedness would be “worth it”, in this particular case, critics of the RM-10412 Petition have generally “rested their case” by simply noting that increased emergency preparedness would come at a price.

Why, I wonder, would we think that it *wouldn't* come at a price? Hasn't our nation's history, *and* the history of nations less fortunate than our own, taught us that “Freedom isn't free”?

And do most of the citizens of this long-blessed nation *still* believe, *deep down*, that our freedom is even more important than our prosperity -- and far, *far* more important than our convenience?

The centrality of *money*, in so many of the Written Comments, makes me wonder.

So does the response of our nation's leaders, and many of its individual citizens, to the events of September 11.

Yes, flags are fashionable again outside of Middle America. Yes, the public's resolve in support of invading Afghanistan has been solid and unwavering. Yes, some individuals performed acts of stunning heroism on and after September 11, and almost *all* of us did *something* to help. And yes, a relative handful of soldiers, and others, have risked life and limb, or even made the ultimate sacrifice, to still the hand of terrorism.

Yet, back here on the home front, what have *most of us* been asked by our leaders to sacrifice, or at least scale back, in order to support "the war against terrorism"?

Our liberties. We have been asked to accept some dilution of our established, "due process" protections against detentions and "unreasonable searches and seizures" -- *and* we have also been asked to self-censor our freedom of speech, in the sense that questioning the judgment of the President, even on tactical rather than substantive matters, has been publicly termed "unpatriotic" much more than once.

And *what else* have we been asked by our leaders to "scale back"?

Our *self-image*. Our image of ourselves as Good Guys, who play fair. Our image of ourselves as people who urge *other nations* to honor the Geneva Convention, rather than people who break it. Our image of ourselves as people who wear crosses and Stars of David proudly, and respect the religions of others, rather than people who strip turbans off Islamic prisoners who deem them sacred. Even our image of ourselves as the kind of people who defend *other nations* against "first strikes" with nuclear weapons, rather than the kind of people who threaten nuclear "first strikes" of our own.

But what *haven't* our leaders asked us to sacrifice?

Our wallets. Our *money*. The “war on terrorism”, the funds for rebuilding New York and Washington, our aid to the widows and orphans of September 11? *All* of it has been *deficit-financed*. That is: The bill for all of it, like the bill for so many other endeavors, has been passed on to future generations. Winning the “war on terrorism” may be important, but apparently it isn't important enough to justify giving back some of our tax cuts.

We haven't even been asked to sacrifice much of our *convenience*. Yes, we have been asked to accept delays in travel, caused by tighter security, and virtually all of us have done so. However, despite a national dependence on Middle Eastern oil that has become more dangerous than ever, we have *not* been asked to conserve energy, or buy hybrid electric cars, or convert SUVs to natural gas, or invest in solar energy stock instead of VCRs and DVDs.

Nor have we been asked to reconsider the draft.

You can put it all together easily enough. If we *are* being asked to dilute our civil liberties (and those of others), and we *are* being asked to surrender our idealized image of ourselves as people of principle and compassion, but we *aren't* being asked to give up any of our money, and we *aren't* even being asked to consider minor lifestyle changes for the sake of increased national security, then what does that say about what our nation's values *really* are?

It is my fervent hope that the values implied in this sorry picture -- money and convenience first, freedom and decency second (maybe) -- are *only* the distorted choices of misguided leaders, unworthy of the citizens they serve.

When I see the same themes reflected in so many of the Comments in this Docket, however, I have to wonder. I really have to wonder.

And I can't help remembering the words of W. Somerset Maugham:

"If a nation values anything more than it values its freedom, it will lose its freedom. And the irony is: If the thing it values more than freedom is money, it will lose that, too."

In any event, *this* is an opportunity for the Commission to put the nation's freedom *first* -- ahead of money and convenience.

I pray that it will choose to do so.

Respectfully submitted,

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